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# Fax

To: US Environmental Protection Agency  
Region 4 Freedom of Information  
From: Catherine Wannamaker  
Southern Environmental Law Center  
Date: August 23, 2013

Fax No.:

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Comments:

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# SOUTHERN ENVIRONMENTAL LAW CENTER

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August 22, 2013

**VIA E-MAIL AND US MAIL**

U.S. Environmental Protection Agency  
Region 4 Freedom of Information  
SNAFC Bldg, 61 Forsyth Street., S.W., 9th Flr  
Atlanta, GA 30303-8960

Re: **Freedom of Information Act Request: EPA Comments on Coal Mining in Alabama**

To Whom It May Concern:

Pursuant to the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552, on behalf of our client, Defenders of Wildlife, the Southern Environmental Law Center ("SELC") submits this request for records from the Environmental Protection Agency ("EPA"). Specifically, we request that you provide copies of all records that contain (1) any comments made by EPA on any new or existing state or federal permits for surface coal mining in Alabama, including permits issued pursuant to section 404 of the Clean Water Act and permits issued by the Alabama Department of Environmental Management within the last 5 years, and (2) any EPA documents or studies discussing the impacts of coal mining in the Black Warrior River watershed of Alabama within the last 5 years.

For the purposes of this request, the term "records" includes all written, printed, recorded or electronic materials, communications, correspondence, memoranda, notations, copies, diagrams, charts, books, papers, maps, photographs, data, tables, spreadsheets, formulas, directives, observations, impressions, contracts, letters, messages, and mail in the possession, custody, or control of the EPA. We ask that you produce electronically stored information in its native format, and specifically that you produce electronic mail in ".pst" format.

FOIA directs a responding agency to make a "determination" on any request within twenty working days of receipt. 5 U.S.C. § 552(a)(6)(A). We specifically request that you comply with the statutory deadline. Should our request be denied, we ask that you inform us of the grounds for denial and the specific administrative appeal rights that are available. *Id.*

If any portion of this request is denied, we request a detailed statement of the reasons for the withholding, and an index or similar statement of the nature of the materials withheld. In the

event of deletions or redactions, we request that a reason be stated for each partial denial of access. Also, please be advised of President Clinton's October 4, 1993, Executive Order, stating that reasonable doubts concerning FOIA requests be resolved in favor of access, and President Obama's January 21, 2009, Executive Order, stating that "all agencies should adopt a presumption in favor of disclosure, in order to renew their commitment to the principles embodied in FOIA, and to usher in a new era of open Government."

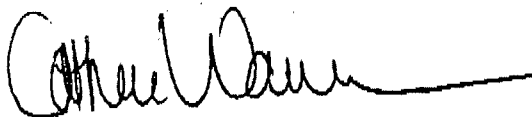
We request that you waive any search and duplication fees and provide the requested records without charge, or at a reduced charge, pursuant to 5 U.S.C. § 552(a)(4)(A)(iii). Courts have recognized that Congress intended FOIA's fee waiver provision to be "liberally construed in favor of waivers for noncommercial requesters." *McClellan Ecological Seepage Situation v. Carlucci*, 835 F.2d 1282, 1284 (9th Cir. 1987). SELC is a non-profit organization working to protect the natural resources of the Southeast and, in particular, to gather, analyze, and disseminate public information about coal mining impacts in Alabama. Defenders of Wildlife is a national, non-profit membership organization dedicated to the protection of all native animals and plants in their natural communities.

The disclosure of the requested materials would be in the public interest because it is likely to contribute significantly to public understanding of the EPA's recent activities and is not in the commercial interest of SELC or our clients. SELC and Defenders of Wildlife monitor and participate in coal mine permitting and enforcement in Alabama, and seek to inform and educate our members and the public concerning the impacts of coal mining on the environment. For example, SELC, on behalf of several clients, has challenged ADEM's issuance of two new coal mines in the Black Warrior River watershed and sent numerous comment letters on other proposed mines. We also maintain and regularly update a website to disseminate information to our members and the public regarding environmental issues in the Southeast, including the impacts of coal mining.

Should our request for reduced or waived fees be denied, we are prepared to bear the reasonable costs necessary to fulfill this request, although we request that you contact us before processing this request to discuss fees. We reserve our rights to appeal a denial of our request for a fee waiver or reduction.

Finally, because the volume of records responsive to our request may be large, we are willing to work with your agency to minimize the work necessary to respond. We are available to review documents prior to any duplication and are willing to discuss other ways to facilitate the production of the requested public records, for instance, by narrowing our request if necessary. Please contact me at 678-891-0498, [cwannamaker@selcga.org](mailto:cwannamaker@selcga.org) by September 22, 2013, regarding this records request.

Sincerely,



Catherine Wannamaker  
Senior Attorney